

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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CLERK US DISTRICT COURT DISTRICT OF NEVADA	
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ANTONIO M. BREAKMAN,

Plaintiff.

vs.

TOM STUBBS, et. al.,

Defendants.

3:10-CV-00487-RCJ (WGC)

MINUTES OF THE COURT

October 31, 2011

PRESENT: THE HONORABLE WILLIAM G. COBB, U.S. MAGISTRATE JUDGE

DEPUTY CLERK: JENNIFER COTTER REPORTER: NONE APPEARING

COUNSEL FOR PLAINTIFF(S): NONE APPEARING

COUNSEL FOR DEFENDANT(S): NONE APPEARING

MINUTE ORDER IN CHAMBERS:

Plaintiff has filed a Motion for an Order to Defendant and Defendant's Counsel to Correct Retaliatory Change of Unit. (Doc. # 23.) Plaintiff claims he was transferred to another housing unit which does not have law clerks in retaliation for litigating his cases. (*Id.*) Defendant opposes the motion. (Doc. # 29.)

This action is based on Plaintiff's claim that Defendant used excessive force against him, and then retaliated against him when he filed a grievance concerning that conduct, by taking away his personal property. (Doc. # 9.) In this motion, Plaintiff is claiming the transfer between housing units is retaliatory in violation of the First Amendment. (Doc. # 23.) He also potentially raises an access to courts claim under the First Amendment. (*Id.*) The claims he asserts here are distinct from those alleged in the Complaint, which stem from the alleged use of excessive force. The contentions of this motion are properly lodged using the prison grievance system and, if they remain unresolved, by filing a new action. Accordingly, Plaintiff's motion (Doc. # 23) is **DENIED.**

While obtaining assistance of other inmates in legal matters may be protected by the First Amendment, Defendants are correct that there is no authority providing Plaintiff has a right to a particular inmate of his choosing to assist with his legal matters. Plaintiff has not indicated he has been denied access to any inmate law clerk, just that he cannot access inmate Amadeo Sanchez. Moreover, Plaintiff has filed several documents with the court since the time he was transferred to another housing unit, and has demonstrated he is able to litigate this case on his own. Plaintiff may have the assistance of law clerks at the prison that are within his housing unit, and none of the issues in this case appear to be particularly complex. The court will not appoint one inmate to represent another. Therefore, Plaintiff's motion (Doc. # 27) is **DENIED**.

LANCE S. WILSON, CLERK

By: /s/
Deputy Clerk